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March 10, 2000

The Honorable Janet Reno
Attorney General
United States Department of Justice
Washington, D.C. 20530

Re: The Freeh and La Bella Memoranda

Dear General Reno:

The Justice Department has apparently disclosed to the *Los Angeles Times* the memorandum by Charles La Bella regarding the appointment of an Independent Counsel for the campaign fundraising investigation. As you know, I subpoenaed this memorandum, as well as the similar memorandum by FBI Director Louis Freeh, in July 1998. You refused to comply with my subpoena, and the Committee voted to hold you in contempt. However, you have still refused to provide the memorandum to the Committee, despite that contempt vote and several requests since that time. While you failed to comply with a lawful Congressional subpoena, either you or someone in the Justice Department has seen fit to provide the La Bella memorandum to the media. The leak of the La Bella memorandum speaks volumes about your mismanagement of the Justice Department, your mishandling of the campaign fundraising investigation, and your disregard for Congressional oversight of the Justice Department. I am sending with this letter a subpoena for the Freeh and La Bella memoranda, and I expect that the Department will now comply with the subpoena.

The Committee initially subpoenaed the Freeh memorandum in December 1997, and then it subpoenaed both the Freeh and La Bella memoranda in July 1998. You refused to comply with the subpoenas, claiming that disclosure of the memoranda to the Committee would harm the Justice Department's campaign fundraising investigation, as well as the internal deliberation process at the Justice Department. In a letter dated July 28, 1998, you stated:

The disclosure of these memoranda could provide a "road map" of the Department's investigation. The documents, or information that they contain, could come into the possession of the targets of the investigation through inadvertence or deliberate act on the part of someone having

access to them. The investigation could be seriously prejudiced by the revelation of the direction of the investigation, information about the evidence that the prosecutors have obtained, and assessments of the strengths and weaknesses of various aspects of the investigation. Indeed, disclosure of information such as is contained in this report could significantly impede the Task Force's criminal investigation, and could conceivably preclude prosecution of some individuals.

In another letter dated August 4, 1998, you stated that:

[S]uch documents lay out the thinking, theories and strategies of our prosecutors and investigators, and the strengths and weaknesses of our cases. They talk about leads that need further investigation, and places where we've reached dead ends. Criminals, targets and defense lawyers alike can all agree on one thing – they would love to have a prosecutor's plans.

Leaving aside the fact that your senior staff have leaked a list of the status of every campaign fundraising case and other information that has had a negative impact on your cases, providing the La Bella memo to the press is an extraordinary turn of events.

In the same August 4 letter quoted above, you also claimed that disclosure of the memos would create a "chilling effect" on Department employees' ability to render advice to you:

If future Attorneys General know that the innermost thinking behind their toughest law enforcement decisions will become fodder for partisan debate, then we risk creating a Justice Department and an FBI that tacks to political winds instead of following the facts and the law wherever they lead. If future law enforcement professionals cannot provide advice that is candid and confidential, we will have a government of "yes" men who advocate what is popular instead of what is right.

You used these arguments against the Committee forcefully and repeatedly during the contempt debate. I was told countless times that compliance with my subpoenas would harm your investigation. I was told that all of the Members of the Committee could not even review the memos in private, because they might leak the contents of the memos. But, the Justice Department's current release of the La Bella memo leads me to reach one of four possible conclusions:

- The arguments that you made in July 1998 were false and misleading.
- The arguments that you made in July 1998 were true, but you no longer are concerned about protecting the Department's investigation, or the frank and candid advice of your subordinates.

- All of the investigations discussed in the La Bella memo are closed, and the memo can be released publicly, but rather than comply with the Committee's lawful subpoena, you decided to release the memo to the press.
- You still believe that disclosure of the memo would cause significant harm to the campaign fundraising investigation, but you do not have enough control over your senior political advisers to prevent them from leaking the memo to the press.

The release of the La Bella memo shows that something is seriously wrong at the Justice Department; whether it is incompetence, politicization, or a serious disregard for the rule of law has yet to be determined. Since the Department has released the La Bella memo to the press, I expect that you will now comply with this Committee's subpoena for the Freeh and La Bella memos, and provide them to the Committee by Tuesday, March 14. I also expect that the memos will be redacted only to remove information covered by Rule 6(e).

It is clear, based on the brief portions of the La Bella memo that I have reviewed or that have been reported by the *Los Angeles Times*, why you did not want to release the memo to the Committee. First, the La Bella memo condemned you for misleading the American people by providing an erroneous explanation of when an Independent Counsel could be appointed. It also claimed that you had erected a higher legal threshold for investigating White House officials and others covered by the Independent Counsel Act than other individuals. Mr. La Bella concluded that the "contortions that the Department has gone through to avoid investigating these allegations are apparent." As an example of these contortions, Mr. La Bella referred to one senior official, whose name was redacted from the report: "[i]f these allegations involved anyone other than [redacted], an appropriate investigation would have commenced months ago without hesitation."

As described by Mr. La Bella in his memo, the Task Force's investigation was created to fail. Since he wrote his memo, this Committee has discovered countless examples of how that investigation has failed. While many of these cases will be detailed in a report that this Committee will issue later this year, I can briefly recount some of them here:

- Your investigators failed to ask President Clinton a single question about James Riady, Charlie Trie, John Huang, or any other aspect of his involvement in raising foreign money for the 1996 election. As a close friend of Riady, Trie, and Huang, if Bill Clinton were an ordinary citizen, rather than President of the United States, he would have been questioned extensively by the FBI, and likely called before the grand jury. Instead, your Task Force gave him a free pass.
- Your investigators failed to ask Vice President Gore a single question about his relationship with Maria Hsia, or his role in the infamous Buddhist Temple fundraiser. Likewise, if Al Gore were not Vice President, and were some other

private citizen with a ten-year fundraising relationship with Maria Hsia, your investigators would have questioned him extensively.

- You have failed to pursue documents held by the White House and other agencies. For example, it has been widely reported in the press that the White House has failed to produce to Congress or several Independent Counsels thousands of e-mails covered by subpoenas. While there are almost certainly Justice Department subpoenas outstanding for those e-mails, as of March 8, the Justice Department had not contacted any of the Northrop Grumman employees responsible for the White House e-mail system. In contrast, when you were confronted with embarrassing new information in the Waco tragedy, you immediately dispatched United States Marshals to seize evidence from the FBI. When you learned of significant new evidence being held by the White House in the campaign fundraising matter, you did nothing. While this disparate treatment could simply be attributed to incompetence, the La Bella memo suggests that there might be more serious reasons for the Department's failure. You seem to be proceeding on the premise of what you don't know won't hurt your political colleagues and your political party.
- The La Bella memo apparently points out that the First Lady has potential criminal involvement in the campaign fundraising scandal, based on her failure to warn the DNC about the illegal campaign fundraising activities of Charlie Trie. In April 1996, Mrs. Clinton was warned that Trie was raising huge amounts of money for the Presidential Legal Expense Trust. By May 1996, her closest advisers were told that the money raised by Trie was foreign money, and had been given through straw donors. However, Mrs. Clinton did nothing to warn the DNC about Trie's illegal fundraising. In the time period between April and November 1996, while Mrs. Clinton sat on this information, Trie raised hundreds of thousands of dollars worth of illegal contributions for the DNC. Your task force has apparently failed to follow up on these serious allegations.

The La Bella memo's conclusions about your handling of the campaign fundraising investigation are alarming. Moreover, Mr. La Bella's predictions about the failure of the investigation have come true. Many low-level figures, like John Huang and Charlie Trie, have pled guilty, and gotten light sentences without giving up any serious evidence. In the process, they have maintained implausible stories that exculpate them and their superiors. For example, John Huang sat before this Committee and testified that the Buddhist Temple event with the Vice President was not a fundraiser, even though it raised funds, and even though individuals who contributed to attend were seated at the front. I fail to understand how you can hear testimony like that, and then tell a sentencing judge that Mr. Huang is cooperating with your investigation. Similarly, Charlie Trie appeared before this Committee and claimed that the money given to him by Ng Lap Seng to contribute to the DNC was actually Trie's own money, even though he did not pay taxes on it, or list it on his financial disclosure forms. Yet again, Mr. Trie received credit for cooperating with the Justice Department. Failure to obtain true cooperation

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from these witnesses has meant that the Department has not been able to pursue White House and DNC officials who may have had a role in the fundraising scandal. The La Bella memo raises a serious question as to whether this failure is intentional.

By ignoring the advice given to you by Director Freeh and Mr. La Bella, you crippled the campaign fundraising investigation. By withholding the memos from this Committee, you tried to keep the Committee from learning how you had mishandled the investigation. At this point, it is unlikely the harm can be undone, and that a real campaign fundraising investigation will ever be conducted by the Department. However, the Congress has a right to know what has happened, and therefore, I expect that you will immediately comply with the Committee's subpoena.

Sincerely,

A handwritten signature in black ink, appearing to read "Dan Burton". The signature is stylized with a large, looping initial "D" and a long, sweeping horizontal stroke at the end.

Dan Burton

Chairman

cc: The Honorable Henry A. Waxman, Ranking Minority Member